

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE: Greg Browning)	Franklin County
Property ID: 042 045.00)	
)	
Tax Year 2014)	Appeal No. 97007

INITIAL DECISION AND ORDER

Statement of the Case

The Franklin County Board of Equalization ("County Board") valued the subject property for tax year 2014 as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$	\$	\$1,101,300	\$275,325

The taxpayer timely appealed to the State Board of Equalization ("State Board"). The undersigned administrative judge conducted the hearing on May 21, 2015 in Winchester. Greg Browning, Franklin County Property Assessor Bruce Spencer, and Brenda Schewe participated.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The subject property was a lakefront home originally constructed in stages during the 1970's. The taxpayer purchased the property in 2009 for \$1,100,000.¹

The taxpayer contended the subject should be valued at \$700,000. To support this position, the taxpayer discussed several problems with the 8,000 square foot, seven bedroom, 4.5 bath, four garage lakefront home on 9.2 acres of land. Highlights of the problems included

¹ The taxpayer argued that the purchase was not an arms-length transaction because the seller waited 450 days before accepting the taxpayer's offer.

disrepair, septic back up, undevelopable land, eight foot ceilings, split-level construction, lake view obstruction by TVA-protected vegetation, and 650 square foot dock that could support little more than a 20 foot boat and a jet ski. The taxpayer's proof relevant to fair market value of the subject consisted of examples of newer, allegedly superior lake homes in subdivisions that sold in the \$500,000 - \$700,000 range in 2012-2013.²

As the party challenging the status quo, the taxpayer has the burden of proof to establish a more credible value.³ "Value" is ascertained from evidence of the property's "sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values..."⁴ The Assessment Appeals Commission has observed,

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value

E.B. Kissell, Jr. (Final Decision & Order, Shelby County, Tax Years 1991 and 1992).

Upon review of the record, the administrative judge finds that the taxpayer failed to carry the burden of proof. Although the taxpayer's presentation was very thoughtful and detailed, the record provides no means of quantifying adjustments to the taxpayers' comparable lakefront property sales or of quantifying the impact the plethora of perceived problems with the subject had on value. With better proof – say, perhaps, the report and testimony of an expert qualified to value a unique property of this nature – the administrative judge suspects a reduction in value

² The taxpayer also discussed perceived flaws in the assessor's property record card land values and presented information about several non-water influence homes.

³ See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. Ct. App. 1981). Disproving assumptions underlying the current valuation or pointing out "the likelihood that a more accurate value is possible" - without more – neither invalidates the levy or judgment under appeal nor constitutes a prima facie case for a change. *Coal Creek Company* (Final Decision & Order; Anderson, Campbell, and Morgan counties; Tax Years 2009-2013; issued June 25, 2015).

⁴ Tenn. Code Ann. § 67-5-601(a).

might very well be justified. But under the existing record, the administrative judge unfortunately has no choice but to uphold the assessment.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2014:

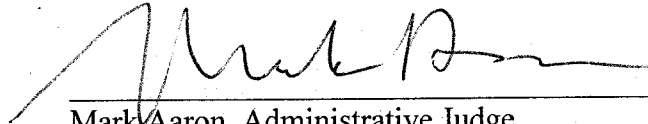
<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$	\$	\$1,101,300	\$275,325

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

The result of this appeal is final only after the time expires for further administrative review, usually seventy-five (75) days after entry of the Initial Decision and Order if no party has appealed.

ENTERED this 17th day of August 2015.



Mark Aaron, Administrative Judge
Tennessee Department of State
Administrative Procedures Division
William R. Snodgrass, TN Tower
312 Rosa L. Parks Avenue, 8th Floor
Nashville, Tennessee 37243

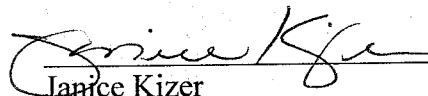
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing Order has been mailed or otherwise transmitted to:

Greg Browning
1657 Boswell Road
Winchester, TN 37398

Bruce Spencer
Franklin Co. Assessor of Property
Franklin County Courthouse
1 South Jefferson Street
Winchester, Tennessee 37398

This the 17th day of August 2015.



Janice Kizer
Tennessee Department of State
Administrative Procedures Division